



August 29, 2013

VIA FED EX

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, Maryland 20743

Re: Opposition to Petition for Special Relief in CSR No. 8821-E

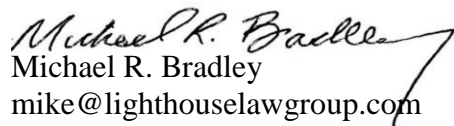
Dear Ms. Dortch:

Attached for filing *In the Matter of Comcast Cable Communications, LLC, Petition for Special Relief for Determination of Effective Competition in: 8 Washington Franchise Areas, CSR No. 8821-E*, are an original and four (4) copies of the Opposition of the City of Edmonds, Washington to Comcast's Petition for Special Relief (the "Opposition").

I have also enclosed an additional copy of the Opposition. Please date-stamp that copy and return it to me in the enclosed postage-prepaid envelope.

Very truly yours,

Lighthouse Law Group, PLLC


Michael R. Bradley
mike@lighthouselawgroup.com

Attachments

- c. Mr. Stephen Clifton
- Mr. Jeff Taraday
- Mr. Wesley R. Heppler
- Mr. Steven J. Horvitz
- Mr. Frederick W. Giroux
- Mr. Steven Broeckert



**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Comcast Cable Communications, LLC,)	
on behalf of its subsidiaries and affiliates)	CSR No. 8821-E
)	
For Determination of Effective Competition in:)	
8 Washington Franchise Areas)	

**OPPOSITION OF THE CITY OF EDMONDS, WASHINGTON TO COMCAST'S
PETITION FOR SPECIAL RELIEF**

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August 29, 2013

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**OPPOSITION OF THE CITY OF EDMONDS, WASHINGTON TO COMCAST’S
PETITION FOR SPECIAL RELIEF**

Comcast Cable Communications, LLC (“Comcast”) has filed an *EC Petition*,¹ with the Federal Communications Commission (the “FCC” or the “Commission”) purporting to prove that the competing provider test for effective competition has been satisfied in the City of Edmonds, Washington (the “City”),² but has denied City an opportunity to review its claims by redacting all of the essential supporting evidence from the “public” version of the *EC Petition*; this practice should be clearly and unambiguously rejected by the Media Bureau as it violates the City’s procedural due process rights in the instant proceeding.

Comcast’s behavior is particularly egregious because the company willfully denied two separate requests from the City for an un-redacted copy of the *EC Petition*. Since Comcast provided inadequate evidence to the City – the entity whose rate regulation authority and power to protect cable service subscribers is at risk of being revoked – Comcast has failed to meet its burden of proof and its *EC Petition* must be denied. To rule otherwise, would be contrary to the Commission’s rules, arbitrary and capricious (because the Bureau would not be acting based on a

¹ *In the Matter of Comcast Cable Communications, LLC, Petition for Special Relief For Determination of Effective Competition in 8 Washington Franchise Areas*, CSR No 8821-E, filed on or about July 19, 2013. Public Notice of the *EC Petition* was published on August 12, 2013.

² The City is a certified rate regulation authority under FCC rules.

complete record where the City had an opportunity to address the assertions by Comcast), and a violation of the City's due process rights, because the City has had no opportunity to view, let alone challenge, the evidence offered in the *EC Petition*.

The City further opposes the *EC Petition* on the grounds that it relies entirely on unverified and potentially flawed data, which cannot lawfully support a finding of effective competition. In this regard, the City urges the Media Bureau to end its ongoing practice of rubber-stamping the cable industry's unreliable and unconfirmed effective competition calculations and, instead, follow the letter and the spirit of Sections 623(a)(2) and 623(l)(1) of the Cable Communications Policy Act of 1984, as amended (the "Cable Act"), 47 U.S.C. §§ 543(a)(2) and 543(l)(1), and the Commission's regulations by affirmatively validating or rejecting Comcast's household and/or multichannel video programming distributor ("MVPD") subscriber data (and any and all associated allocations) and using the most conservative approach in calculating effective competition. Absent a rigorous review of Comcast's calculations, and actual confirmation of the existence of effective competition in the City based on trustworthy data, the FCC runs a real risk of providing permanent corporate subsidies to the largest cable operator in the country at the expense of subscribers, who will be left entirely unprotected due to complete rate deregulation, and will be subject to monopolistic pricing practices notwithstanding any FCC finding of effective competition in the Edmonds franchise area.

The critical need for the FCC to scrutinize Comcast's *EC Petition* (and all the underlying data and calculations) is underscored by the fact that the City only has 20 days to respond under 47 C.F.R. § 76.7, is not privy to critical redacted MVPD subscriber numbers and calculations that were apparently filed with the FCC, and possesses no discovery tools to obtain data,

calculations and explanations from Comcast.³ Despite these almost insurmountable limitations, the City has identified several obvious but fundamental problems with the data and calculations Comcast has relied upon its *EC Petition*.⁴

In light of the City's findings, cable subscribers (who fund the Commission) deserve to have their interests protected by having the FCC proactively and diligently evaluate data that is suspect on its face in light of the unproven, flawed and/or unknown methodologies Comcast has utilized to develop the total MVPD subscriber count for the Edmonds franchise area.⁵ And it should not take the Commission half a decade (or more) to investigate Comcast's proffered data and calculations. If the FCC does not have the resources to verify the data included in the *EC Petition* in a transparent, legitimate and reproducible manner within a reasonable timeframe, the *EC Petition* should be denied outright consistent with the legal presumption that effective competition does not exist in the City.⁶ It is, after all, Comcast's burden and responsibility to provide the Commission with accurate, trustworthy and verifiable data that satisfy the Cable Act's competing provider test, and the FCC's obligation to analyze underlying data and computations fairly and thoroughly – not just “accept” them at face value, as has been the case for many years now.

To properly discharge its duties under the Cable Act and FCC rules, and to adequately protect the public interest (as is required when considering petitions for special relief),⁷ the

³ See Attachment A, Declaration of Richard D. Treich in Support of the Opposition to Comcast's Petition for Special Relief Filed by the City of Edmonds, Washington (the “Treich Declaration”) at ¶¶ 5, 8-14.

⁴ See generally Treich Declaration.

⁵ Merely using a methodology accepted by the Media Bureau in the past without scrutiny by the Media Bureau is not a proper basis for the Media Bureau to conclude the accuracy of the current data.

⁶ 47 C.F.R. § 76.906.

⁷ See 47 C.F.R. § 76.7.

Media Bureau must conservatively calculate whether or not Comcast is subject to effective competition in the City, and undertake its own review: (i) to examine fully the flaws the City identified with the methodology Comcast used to develop DBS subscriber numbers for the franchise area at issue (*i.e.*, the territorial boundaries of Edmonds); and (ii) to investigate the unspecified and untested process Frontier Communications Northwest Inc. (“Frontier”) utilized to identify and quantify the number of video subscribers is has in the Edmonds franchise area. As Congress intended when it revised the rate regulation provisions of the Cable Act in 1992, consumer interests must be protected through a meaningful FCC review of the *EC Petition* which ensures that Comcast will not be freed from local rate regulation until such time that it has reliably and accurately proven that the competing provider test for effective competition has been satisfied.

I. BACKGROUND AND SUMMARY.

Comcast submitted a redacted *EC Petition* to the City, which removed all of the critical evidence necessary for the City to evaluate Comcast’s assertion that effective competition exists in the Edmonds franchise area. Therefore, the City requested an un-redacted copy of the *EC Petition*, which Comcast refused to provide.⁸ Comcast’s willful refusal left the City without an opportunity and the capability to evaluate and verify any of the essential evidence and calculations allegedly supporting the *EC Petition*. Since Comcast provided inadequate evidence to the City, Comcast has failed to meet its burden of proof and its *EC Petition* must be denied.

Additionally, Comcast once again asks the FCC to accept unverified data at face value

⁸ See the E-mail from Steven Horvitz, Counsel for Comcast, to Michael Bradley, Counsel for the City (Aug. 22, 2013 at 2:28 p.m.), attached hereto incorporated herein as Attachment B, and the E-Mail from Stan Finley, Director of Franchising & Government Affairs for Comcast, to Stephen Clifton, Director of Community Services and Economic Development for the City (August 22, 2013 at 10:55 a.m.) attached hereto and incorporated herein as Attachment C. See also Treich Declaration at ¶ 11.

and to find effective competition exists in the City under the theory that Comcast’s evidentiary showing (and underlying calculations) have been accepted in the past.⁹ As is typical in Comcast petitions for effective competition, the company relies on SNL Kagan to identify the zip+4 zip codes associated with the City, then sends those zip+4 zip codes to the Satellite Broadcasting and Communication Association (“SBCA”), which specifies the number of direct broadcast satellite (“DBS”) subscribers located in each zip+4 area.¹⁰

Neither Comcast nor SNL Kagan fully explains the “multi-step process” utilized to assign zip+4 zip codes to the Edmonds franchise area, or includes any raw data, assumptions or analyses in the *EC Petition*. This issue is compounded by the fact that Comcast redacted all of the meaningful evidence, making it absolutely impossible for the City to determine whether the 15% threshold test was actually met.

Further, the terse and ambiguous description of the SNL Kagan methodology included in Exhibit 5 to the *EC Petition* is inadequate and utterly worthless because it does not enable the City (or the Media Bureau, for that matter) to evaluate or replicate SNL Kagan’s findings because: (i) the “Place, Minor Civil Division (MCD), and County boundaries from Dynamap;” and (ii) the “ZIP+4 Centroids” database upon which Comcast and SNL Kagan rely have not been furnished.¹¹ Moreover, it is entirely unclear how SNL Kagan actually uses this information to determine which specific zip+4 zip codes are located solely within the City’s corporate boundaries.¹² It should also be noted that SNL Kagan admits there is an inherent flaw built into its “multi-step process” because the ZIP+4 Centroids database includes correspondence for

⁹ *EC Petition* at 6-9. *See also* Treich Declaration at ¶ 6.

¹⁰ *EC Petition* at 6-8. *See also* Treich Declaration at ¶ 9.

¹¹ *See* Treich Declaration at ¶¶ 9-10 and Exhibit 5 to the *EC Petition*.

¹² *Id.*

“virtually all,” but not all, zip+4 zip codes.¹³ Again, since Comcast redacted all DBS subscriber numbers associated with each zip+4 zip code from the version of the *EC Petition* filed with the City it is impossible to review the evidence to determine if the 15% threshold test is met.¹⁴

Comcast’s *EC Petition* further relies on subscriber data from Frontier in an attempt to prove that the second prong of the competing provider test for effective competition has been satisfied.¹⁵ However, Frontier’s subscriber numbers for the Edmonds franchise area have been redacted from the *EC Petition* served on the City.¹⁶ The redaction of this critical information is apparently based on the terms of a “Confidentiality and Non-Disclosure Agreement” entered into by Comcast and Frontier.¹⁷ The end result of Comcast’s and Frontier’s self-serving conduct is that the City is unable to assess whether Frontier has accurately reported the number of subscribers it has within the boundaries of the City.¹⁸

The City’s outside consultant, Front Range Consulting, Inc. (“FRC”), has reviewed the *EC Petition* and has found Comcast’s standard approach to identifying DBS subscribers in the City is unsubstantiated and inaccurate because SNL Kagan’s zip+4 zip code allocation methodology, which Comcast uses to determine DBS subscribership for purposes of the competing provider test, is unknown and untested, and there is no universally accepted database that precisely matches zip+4 zip codes with political and geographic boundaries of municipalities.¹⁹ While it is understood and generally accepted that zip+4 zip codes encompass a much smaller geographical area than 5-digit zip codes, if SNL Kagan were to improperly include

¹³ Exhibit 5 to the *EC Petition*.

¹⁴ See Treich Declaration at ¶ 10. See also fn. 29 and Exhibit 6 to the *EC Petition*.

¹⁵ See, e.g., Treich Declaration at ¶ 11.

¹⁶ See Treich Declaration at ¶ 11. See also fn. 25 and Exhibit 4 to the *EC Petition*.

¹⁷ Treich Declaration at ¶ 11 and Exhibit 4 to the *EC Petition*.

¹⁸ See, e.g., Treich Declaration at ¶ 11.

¹⁹ See Treich Declaration at ¶ 6-10.

or exclude a large number of zip+4 zip codes, or even a small number of zip+4 zip codes that contain a large number of occupied households that do or do not subscribe to DBS service, a significant mistake in the resulting MVPD penetration rate could still occur.²⁰

With respect to the *EC Petition*, even a relatively minor error in the exclusive assignment of zip+4 zip codes to the Edmonds franchise area could have a major legal impact on the outcome of this proceeding. For instance, the erroneous use of zip+4 geographic areas that overstate the number of DBS subscribers in the City by just 1.2 percent would improperly add 211 MVPD subscribers to Comcast's overall MVPD penetration calculation.²¹ If those subscribers were subtracted from Comcast's competing provider test computations, the MVPD penetration rate for the Edmonds franchise area would fall below the 15 percent threshold necessary for a finding of effective competition.²²

Since the City believes the underlying data supporting the *EC Petition* is unsubstantiated, suspect and potentially flawed, and that relatively insignificant errors in the allocation of MVPD subscribers could cause the MPVD subscriber penetration rate in the City would not meet the requisite 15 percent standard, the Bureau cannot now simply rubber-stamp Comcast's calculations without affirmatively taking steps to actually verify the integrity of the SNL Kagan process for identifying zip+4 zip codes that lie only within the corporate boundaries of the City, resulting occupied household and DBS subscriber numbers, and the process used by Frontier to identify the number of video subscribers it has within the corporate boundaries of the City. Under these circumstances, any failure to by the Bureau to validate Comcast's MPVD subscriber penetration calculations using the most conservative approach possible would violate the

²⁰ See *id.* at ¶ 10.

²¹ *Id.*

²² *Id.*

Commission's unambiguous regulations and produce an arbitrary and capricious decision.

There is much at stake for subscribers in this proceeding. If the Media Bureau sanctions Comcast's unreliable and untested data and computations without performing a rigorous review, and then finds effective competition is present in the Edmonds franchise area, the City will no longer be able to regulate basic service and associated equipment and installation rates. Subscribers will then be subject to Comcast's pricing whims, even though the company never definitively or adequately demonstrated to the Bureau that it satisfied the statutory criteria for effective competition. Such an outcome would certainly seem to undermine and eviscerate the remaining rate regulation provisions of the Cable Act and the FCC's implementing rules.

II. ARGUMENT.

Cable systems are presumed not to be subject to effective competition, as that term is defined by the Commission's rules.²³ Comcast bears the burden of overcoming that presumption by proving that effective competition exists in a particular franchise area.²⁴ Here, Comcast did not meet its burden, *because it redacted all of the evidence* purportedly supporting a finding of effective competition from the "public" version of the *EC Petition*. Thus, Comcast provided no evidence to the City – a necessary party to this proceeding – in support of its *EC Petition* and therefore has failed to meet its burden of proof. Additionally, according to FRC, the underlying methodology and data used by Comcast (even if it was available to the City) is inherently unreliable. For these reasons, the Commission must deny all relief sought in the *EC Petition*.

A. *Comcast has failed to meet its burden of proof because it did not provide evidence in support of its EC Petition to the City.*

As a certified local rate regulation entity whose federal authority to set reasonable basic

²³ See 47 C.F.R §§ 76.905 and 76.906.

²⁴ 47 C.F.R. § 76.907(b).

service and associated equipment charges and to require uniform pricing could be permanently revoked, the City has a fundamental right to review Comcast's claim that it is subject to effective competition under the Cable Act's competing provider test. At the present time, the City is unable to exercise that fundamental right, because Comcast has redacted absolutely all of the critical data from the "public" version of its *EC Petition*²⁵ and has refused to furnish that data to the City and its attorneys despite two written requests for copies of the complete, un-redacted *EC Petition*.²⁶ Specifically, Comcast has redacted the number of DBS subscribers the SBCA identified for each zip+4 zip code SNL Kagan assigned to the Edmonds franchise area, the number of Frontier "video" subscribers located in the City, and any explanation as to how Frontier calculated its video subscriber number.²⁷ Without this information, the City cannot possibly perform a meaningful review of the *EC Petition* and defend its and subscribers' interests.

For instance, the City cannot evaluate whether Frontier improperly included video subscribers from other franchise areas in its data submission, or whether SNL Kagan erroneously provided Comcast with zip+4 zip codes that fall outside the City's geographic boundaries, in whole or in part.²⁸ Consequently, the City has been seriously prejudiced by Comcast's inappropriate conduct, and has effectively been denied due process. While it is unclear how the FCC could completely rectify this deprivation of rights given the pleading cycle established for

²⁵ See, e.g., Treich Declaration at ¶¶ 5, 8, 10-11 and 14.

²⁶ See the E-mail from Steven Horvitz, Council for Comcast, to Michael Bradley, Counsel for the City (Aug. 22, 2013 at 2:28 p.m.), attached hereto incorporated herein as Attachment B, and the E-Mail from Stan Finley, Director of Franchising & Government Affairs for Comcast, to Stephen Clifton, Director of Community Services and Economic Development for the City (August 22, 2013 at 10:55 a.m.) attached hereto and incorporated herein as Attachment C. See also Treich Declaration at ¶ 11.

²⁷ See, e.g., Treich Declaration at ¶¶ 8-11.

²⁸ *Id.* at ¶¶ 12-13.

petitions for special relief, it must, at a minimum, require cable operators to provide local rate authorities with complete copies of effective competition petitions on a going forward basis, and either deny the *EC Petition* based on the absence of any compelling evidence that the competing provider test for effective competition has been met, or perform a full, transparent and detailed review of Comcast's underlying data and calculations, including the allocation methodology SNL Kagan employed to exclusively associate specific zip+4 zip codes with the City, and the process Frontier utilized to determine its subscriber base located within the City's corporate boundaries.²⁹

Comcast's behavior in this proceeding is particularly troubling because its *EC Petition* was filed pursuant to 47 C.F.R. §§ 76.7 and 76.907, neither of which explicitly permits Comcast to withhold information from the City. Section 76.907(c), for instance, merely states that information concerning a competitor's reach and subscriber numbers must be furnished to a cable operator within 15 days, and that a response may be limited to numerical totals. Section 76.907 plainly does not say that a competitor's data is entitled to confidential treatment, or that such information, even if it is confidential, can be unilaterally redacted from pleadings served on parties to an effective competition proceeding. Section 76.7 is likewise silent on the issue of confidentiality and redaction, and does not sanction Comcast's use of redacted pleadings in this case. Indeed, Section 76.7 strongly suggests that petitions for special relief, such as Comcast's *EC Petition*, must be served in their entirety on franchising authorities and other persons who are likely to be directly affected if the relief requested is granted in the absence of a protective order

²⁹ See Treich Declaration, at ¶¶ 12-13 for a full description of the necessary investigations.

or other specific authority.³⁰ Comcast has not cited any statutory or legal authority for its redaction of vital MVPD subscriber numbers and any other information related to the calculation of the MVPD subscriber penetration rate set forth in the *EC Petition*.

At this point, it is entirely unclear if the data Comcast has redacted is truly entitled to confidential treatment under applicable laws and regulations. DBS subscriber numbers, for example, have been consistently disclosed in prior effective competition proceedings.³¹ Comcast's only apparent rationale for removing DBS subscriber numbers from the "public" *EC Petition* furnished to the City and departing from established precedent is its desire to protect Frontier's subscriber data pursuant to an unknown confidentiality agreement.³² But such a rationale does not prove that either DBS subscriber data or Frontier's subscriber data fall within an exemption to the Freedom of Information Act, 5 U.S.C. § 552(b). Indeed, Comcast has not provided any showing that the data it has redacted fall within the ambit of proprietary, protected information under the standards for non-disclosure enunciated in the Freedom of Information Act. Thus, Comcast should have provided the City with a complete version of the *EC Petition* that it could review in order to determine if the competing provider test for effective competition has been satisfied in the Edmonds franchise area.

Even if the data Comcast redacted should be accorded confidential treatment under pursuant to FOIA and FCC rules, that data should have been submitted to the City's attorneys of record and consultants upon request. 47 C.F.R. § 76.9 unequivocally specifies that materials marked as proprietary in a petition for special relief can be disclosed to a party's attorneys,

³⁰ See, e.g., 47 C.F.R. §§ 76.7(a)(3) and 76.7(a)(4) (a petition must "state fully and precisely all pertinent facts and consideration relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest.").

³¹ See, e.g., Treich Declaration at ¶ 10.

³² See, e.g., *EC Petition* at fn. 25 and fn. 31.

consultants and expert witnesses to the extent necessary to assist in the defense of the case.³³ As indicated above, the City's counsel of record in this matter requested an un-redacted copy of the *EC Petition* but was rebuffed by Comcast's attorneys on the ground that the data are subject to a confidentiality agreement with Frontier.³⁴ Because the data at issue is necessary for the City to prepare a meaningful defense to the *EC Petition* (i.e., without DBS and Frontier subscriber data, and any associated assumptions, allocations, etc. the City cannot review, replicate, evaluate and, if necessary, correct or challenge Comcast's MVPD subscriber penetration calculations) all of the missing DBS and Frontier subscriber numbers, and all supporting information, should have been filed with the City's attorneys and consultants at the time it was sought.

Consequently, the Media Bureau must deny the *EC Petition* because Comcast has failed to meet its burden of proof by providing adequate evidence to the City. The Commission must also prohibit cable operators and competitors from entering into secret nondisclosure agreements that effectively prevent local rate regulation authorities from exercising their due process rights in effective competition proceedings. What would stop the SBCA from requesting confidential treatment of its subscriber data by zip+4 zip codes going forward and forcing Comcast to redact that information in the "public" version of a petition for special relief delivered to a city? To claim that certain data are proprietary and confidential, Comcast must follow the procedures set forth in applicable law, rather than making entirely unsupported claims in petitions for special relief and withholding data from counsel.

Should the Bureau allow Comcast's conduct to stand, it will be encouraging the cable industry and its competitors to enter into confidentiality agreements for the express purpose of

³³ See 47 C.F.R. § 76.9(c).

³⁴ See the E-mail from Steven Horvitz, Counsel for Comcast, to Michael R. Bradley, Counsel for the City (Aug. 22, 2013 at 2:28 p.m.) attached hereto as Attachment B.

denying local franchising authorities access to the data they need to protect and defend their rights. Not only would such an outcome raise serious Fifth Amendment Constitutional questions, it would be arbitrary and capricious and preclude the FCC from developing a complete record and making a well-reasoned decision.

B. The Bureau Should Not Rubber-Stamp the Unverified Data Supporting the EC Petition in order to Ensure the Integrity of this Proceeding and Other Effective Competition Proceedings.

Congress instituted the “competing provider” test for effective competition as one method of gauging whether cable operators, such as Comcast, actually face effective competition that will adequately and effectively discipline cable service rates. The underlying rationale for this test, and the other tests described in Section 623(l)(1) of the Cable Act, was Congress’s finding that the cable industry enjoyed undue market power over cable service pricing.³⁵ In the absence of a robust market that would yield truly competitive rates, Congress believed it was necessary for the FCC to adopt rate regulation rules in order to protect cable subscribers from monopoly pricing practices. The Commission is charged with properly interpreting and enforcing those rules.³⁶ Consequently, the Commission cannot grant Comcast’s *EC Petition* unless and until Comcast has adequately demonstrated that the “competing provider” test for effective competition has been met.

For the FCC’s rules to have any meaning, and in order to fulfill Congress’s goals for local rate regulation, Comcast’s evidence in this case, and any other effective competition proceeding for that matter, must include more than the repetitive and routine submission of

³⁵ See 47 U.S.C. § 543(a)-(f), (h)-(j), (l)-(n) (provisions of federal law related to finding of effective competition); Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460, § 2(a)(l)(2) (1992).

³⁶ 47 U.S.C. § 543(b)(1). See also *id.* at § 543(h) (Commission is responsible for preventing evasions).

unverified DBS subscriber data that have been shown to be unreliable in the past.³⁷ The City understands and acknowledges that the Bureau has previously approved Comcast's evidentiary showings (notwithstanding their inherent flaws).³⁸ However, in light of the compelling proof set forth in the Application for Review currently pending before the FCC on this very issue,³⁹ the Media Bureau should take long, hard, critical look at its precedent and avail itself this opportunity to correct its past errors, and to give the Commission's rules teeth, as Congress intended.

If the Media Bureau honestly and objectively looks at the data Comcast has submitted in support of the *EC Petition*, it must inexorably come to the conclusion Comcast has not met its burden of proof, because the company would have the Media Bureau base its decision on a discredited methodology and unreliable evidence that the City cannot test (*e.g.*, because it has no discovery rights and only received a redacted version of the *EC Petition* that does not contain MVPD subscriber numbers).⁴⁰ It is therefore incumbent upon the Bureau to perform a meticulous analysis of the *EC Petition* to confirm that Comcast's data (including DBS and Frontier subscriber data that the City has not seen) and zip+4 zip code allocation methodology are accurate and reliable, and actually show that the competing provider test has been met in the City.

The Treich Declaration prepared by FRC convincingly shows that the SNL Kagan data

³⁷ See, *e.g.*, the pleadings filed by the North Metro Telecommunications Commission in *Comcast Cable Communications, LLC, on Behalf of Its Subsidiaries and Affiliates: Petition for Determination of Effective Competition in Six Blaine, Minnesota Franchise Areas*, Memorandum Opinion and Order, DA 13-863 (Rel. April 24, 2013); Treich Declaration at ¶ 7.

³⁸ See, *e.g.*, Treich Declaration at 6.

³⁹ See Application for Review (Filed May 24, 2013) of *Comcast Cable Communications, LLC, on Behalf of Its Subsidiaries and Affiliates: Petition for Determination of Effective Competition in Six Blaine, Minnesota Franchise Areas*, Memorandum Opinion and Order, DA 13-863 (Rel. April 24, 2013).

⁴⁰ See, *e.g.*, Treich Declaration at ¶¶ 7-11.

relied upon by Comcast is unverified and unreliable.⁴¹ According to the Treich Declaration, Comcast relies on data from SNL Kagan in support of its *EC Petition*, but Comcast has only provided the end results without furnishing the underlying allocations and assignments made by SNL Kagan with respect to zip+4 zip codes purportedly solely associated with the City.⁴² Without having the opportunity to review the allocation methodology, it is impossible to determine the accuracy of the underlying data and the DBS subscriber figures Comcast has included in its *EC Petition*, since those numbers are based on SNL Kagan's zip+4 zip code determinations for the Edmonds franchise area.⁴³ Before it can be considered reliable, the SNL Kagan findings must be vetted to determine whether the zip+4 zip codes assigned to the City are accurate (*e.g.*, do not overlap with other jurisdictions) and the resulting MVPD penetration rate is "skewed."⁴⁴ Because there is no universally accepted database that corresponds zip+4 codes with municipal boundaries, the SNL Kagan methodology must be analyzed to verify the data used to support the *EC Petition*.⁴⁵

Unfortunately, the City and the Bureau have no way of knowing exactly how zip+4 codes were allocated or assigned to the City because Comcast never produced this information and the Media Bureau does not require it to do so.⁴⁶ This is especially true for the City, because all of the evidence is redacted. Accordingly, there is no possible way to confirm the accuracy of

⁴¹ See Treich Declaration at ¶¶ 6-7, 9-10.

⁴² See *id.* at ¶¶ 9-10.

⁴³ See *id.* at ¶¶ 6-7, 9-10.

⁴⁴ See *id.* at ¶ 9-10.

⁴⁵ See *id.* at ¶ 10.

⁴⁶ See, *e.g.*, *Comcast Cable Communications, LLC, on Behalf of Its Subsidiaries and Affiliates: Petition for Determination of Effective Competition in Six Blaine, Minnesota Franchise Areas*, Memorandum Opinion and Order, DA 13-863 at ¶ 3 (Rel. April 24, 2013) (citing to *Cablevision of Rockland/Ramapo Inc.*, 22 FCC Rcd 11487, 11496-97, ¶ 24 (2007); *Adelphia Cable Commun.*, 22 FCC Rcd 4412, 4413-14, ¶ 4 (2007)).

Comcast's zip+4 DBS subscriber numbers based on the record before the Bureau.⁴⁷ Just because zip+4 zip codes relate to relatively small geographic areas does not mean the use of zip+4 zip codes in bulk to locate DBS subscribers would necessarily be free from statistically significant errors because there could be underlying zip+4 allocation mistakes.⁴⁸ For instance, if SNL Kagan had improperly included a new subdivision or "planned" annexation, their data could be significantly in error when identifying zip+4 codes situated within the relevant franchise area.⁴⁹ Because there are identified issues with this approach, accepting and relying on Comcast's DBS subscriber numbers without any screening or meaningful examination is purely speculative, arbitrary and capricious. Cable subscribers deserve more from the Media Bureau, particularly since they pay for the Bureau's regulatory activities.

A speculative "best guess" standard in effective competition proceedings is not only a significant breach of the trust Congress bestowed on the FCC to protect subscribers against unreasonable cable industry pricing, but also a violation of Commission rules which require a cable operator to prove effective competition does not exist in a franchise area.⁵⁰ It is particularly important for the Bureau to avoid speculation, given the Bureau's refusal to allow rate regulation authorities like the City to engage in any form discovery,⁵¹ despite the fact that 47 C.F.R. § 76.939 requires cable operators to respond to franchising authorities' requests for information. The inability to engage in discovery seriously undermines the City's ability to evaluate the merits of Comcast's *EC Petition* because it cannot obtain the underlying data,

⁴⁷ See Treich Declaration at ¶¶ 6-11.

⁴⁸ See Treich Declaration at ¶ 10.

⁴⁹ *Id.* (if SNL Kagan erroneously included hundreds of zip+4s, the resulting DBS penetration will be skewed – possibly enough to lower the MVPD subscriber penetration rate in the City below the requisite threshold).

⁵⁰ 47 C.F.R. § 76.907.

⁵¹ See Treich Declaration at ¶ 10.

assumptions and calculations Comcast used to produce the relevant DBS subscriber figures for the Edmonds franchise area. This proceeding is further complicated by Comcast's reliance on unconfirmed subscriber data from Frontier that needs to be verified.

The Treich Declaration is *prima facie* evidence of the unreliability of Comcast's data and the potential (if not probable) existence of errors that could require the denial of the *EC Petition*. Based on the City's evidentiary showing, the Bureau must now conduct a methodical review of MVPD subscribership in the City, and the underlying SNL Kagan zip+4 zip code allocation, or require Comcast to fully support its own calculations. Absent such action, the Bureau can only "guess" that the 4,441 zip+4 zip codes Comcast utilized for the Edmonds franchise area⁵² are correct (*i.e.*, fall entirely within the territorial limits of the City and within the franchise area as a whole). The integrity of this and other effective competition proceedings compels the Media Bureau to do more than simply rubber-stamp the unverified data supporting Comcast *EC Petition*.

C. Rubber-Stamping Unverified Data Conflicts with the Commission's Regulations and Case Precedent.

1. Rubber-Stamping the Data Prejudicially Shifts the Burden of Proof Away from the Comcast.

Section 76.907 of the FCC's rules plainly states that Comcast "bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition, as defined in § 76.905, exists in the franchise area."⁵³ Comcast has not met that burden. As the Treich Declaration shows,⁵⁴ the Comcast data supporting the *EC Petition* is unverified and unreliable, and really is not evidence of effective competition at all. As explained

⁵² Treich Declaration at ¶ 10.

⁵³ 47 C.F.R. § 76.907.

⁵⁴ See Treich Declaration at ¶¶ 6, 9-10.

above, the underlying SNL Kagan data and zip+4 zip code allocations upon which Comcast relies in this case are not included in the record, and cannot be evaluated by the FCC or the City.⁵⁵

Because the Bureau is faced with evidence indicating Comcast's data may be unreliable and yield a flawed MVPD subscriber penetration rate for the City,⁵⁶ it must now undertake efforts on its own to verify the data purporting to support the *EC Petition*. If the Bureau cannot or will not, it must deny the relief Comcast has requested in accordance with 47 C.F.R. § 76.907. If it were to accept or "rubber-stamp" Comcast's unverified information and calculations without any meaningful review, the Bureau would, in essence, unlawfully shift the burden of proof in this matter to the City.⁵⁷ In other words, the Bureau would effectively force the City to prove the absence of effective competition by analyzing data to which it does not have access or by providing its own data and performing MVPD subscriber penetration calculations. When local rate regulation authorities have developed their own independent data, the Bureau has deemed that data unreliable, and ignored it, but has routinely accepted the cable industry's unsubstantiated data as "gospel."⁵⁸ Thus, the only lawful and feasible course of action is for the Media Bureau to diligently perform its duty as a finder of fact in effective competition proceedings by objectively examining the veracity of the evidence set forth in the *EC Petition*. Any other action or inaction on the Media Bureau's part would violate 47 C.F.R. § 76.907, which unequivocally requires a cable operator to rebut the presumption that effective competition does not exist through the submission of real evidence. Stated differently, the

⁵⁵ See Treich Declaration at ¶¶ 9-10.

⁵⁶ See generally Treich Declaration.

⁵⁷ See, e.g., *id.* at ¶ 10.

⁵⁸ See Treich Declaration at ¶ 7; Application for Review (Filed May 24, 2013) of *Comcast Cable Communications, LLC, on Behalf of Its Subsidiaries and Affiliates: Petition for Determination of Effective Competition in Six Blaine, Minnesota Franchise Areas*, Memorandum Opinion and Order, DA 13-863 (Rel. April 24, 2013).

Bureau cannot accept Comcast's data, without investigation, when the City has called the legitimacy of that data into question.⁵⁹ Should it do so, the Media Bureau will have acted arbitrarily and capriciously.

2. The Bureau Must Use the Most Conservative Approach Possible when Performing Effective Competition Calculations.

Commission precedent makes clear that the Media Bureau must use the most conservative approach possible to calculate whether effective competition is present under the competing provider test, particularly when potential errors in a cable operator's data have been identified.⁶⁰ Accepting the unverified and unreliable data in the *EC Petition* would be the polar opposite of past precedent. Indeed, the Bureau would instead be taking the most "liberal" approach to calculating effective competition. The Bureau, as a fact-finder, has an obligation to investigate the problems the City identified, and to conservatively calculate the number of MVPD subscribers and occupied households in the Edmonds franchise area using data that are most adverse to a finding of effective competition.⁶¹ This mandate requires the Bureau to reject data that is shown to be unverified and potentially erroneous. Since the City has made such a showing, the Bureau must deny the *EC Petition*.

III. CONCLUSION.

The *EC Petition* must be denied because Comcast provided no evidence to the City and therefore did not satisfy its burden of proof. Further, the Bureau must not rubber-stamp data

⁵⁹ See generally Treich Declaration.

⁶⁰ *Bright House Networks, LLC, Petition for Determination of Effective Competition in Unincorporated Hillsborough County, Florida*, Memorandum Opinion and Order, 20 FCC Rcd 16823, 16826 at ¶ 9 (2005). See also *Tri-Lakes Cable, Petition for Determination of Effective Competition*, Memorandum Opinion and Order, 12 FCC Rcd 13170, 13179-80 (1997) ("we will use those household and subscriber figures proffered in the pleadings that are most adverse to a finding of competition.").

⁶¹ See fn. 57, *supra*.

submitted in support of the *EC Petition* when critical facts have been withheld from the City, and the data are unverified and possibly contain errors that would cause the MVPD subscriber penetration rate in the City to fall below 15 percent standard required to prove the existence of effective competition. To comport with 47 C.F.R. §§ 76.906 and 76.907(b), and Congressional intent, the Bureau must deny the *EC Petition* on its face based on the absence of any credible evidence proving the competing provider test has been met, or undertake its own detailed study to validate the accuracy of Comcast's data and calculations, and follow Commission precedent by using the most conservative approach possible when determining whether effective competition exists. Alternatively, the Media Bureau must require Comcast to include verifiable data with its *EC Petition* that both the City and the FCC can evaluate for accuracy.

Respectfully submitted,

By:


Michael R. Bradley

LIGHTHOUSE LAW GROUP
1100 Dexter Avenue N
Suite 100
Seattle, WA 98109
(206) 273-7440
mike@lighthouselawgroup.com

*Attorneys for the City of Edmonds,
Washington*

Dated: August 29, 2013

CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The undersigned has read the foregoing Opposition of the City of Edmonds, Washington to Comcast's Petition For Special Relief, and, to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law and is not interposed for any improper purpose.

Respectfully submitted,

By: 
Michael R. Bradley

LIGHTHOUSE LAW GROUP
1100 Dexter Avenue N
Suite 100
Seattle, WA 98109
(206) 273-7440
mike@lighthouselawgroup.com

*Attorneys for the City of Edmonds,
Washington*


Dated: August 29, 2013

CERTIFICATE OF SERVICE

I, Michael R. Bradley, do hereby certify that on this 29th day of August 2013, that true and correct copies of the foregoing Opposition of the City of Edmonds, Washington to Comcast's Petition For Special Relief have been sent via First-Class U.S. Mail, postage prepaid, to the following:

Steven A. Broeckaert
Media Bureau -- Policy Division
Federal Communications Commission
445 12th Street, S.W., Room 4-A865
Washington, DC 20554

Steven J. Horvitz
Frederick W. Giroux
Davis Wright Tremaine, LLP
1919 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 20006


Michael R. Bradley

ATTACHMENT A

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of)	
)	
Comcast Cable Communications, LLC,)	
on behalf of its subsidiaries and affiliates)	CSR No. 8821-E
)	
For Determination of Effective Competition in:)	
8 Washington Franchise Areas)	

**DECLARATION OF RICHARD D. TREICH
IN SUPPORT OF THE OPPOSITION
TO COMCAST’S PETITION FOR SPECIAL RELIEF FILED BY THE CITY OF
EDMONDS, WASHINGTON**

I, Richard D. Treich, hereby declare under penalty of perjury, as follows:

1. I submit this declaration in support of the Opposition to Comcast’s Petition for Special Relief (“Opposition”) filed by the City of Edmonds, WA (“City”) in the above-captioned matter. I am fully competent to testify to the facts set forth herein, and if called as a witness, I would testify to them.

2. I have served as CEO of Front Range Consulting, Inc. (“FRC”) since December 2002. I previously served as Senior Vice President, Rates and Regulatory Matters for AT&T Broadband (and its predecessor TCI Communications, Inc. (“TCI”)). I was also the Partner-in-Charge of KPMG Peat Marwick’s national Cable Television and

Utility consulting practices. I earned my Bachelor of Science in Business Administration from Susquehanna University in 1975.

3. I have over thirty years of experience in cable and utility rate regulation matters. I have testified in over 20 different states in 200 proceedings on utility regulatory matters involving cost-of-service and rate design proceedings. I have co-authored a book entitled *Gas Rate Fundamentals* on cost-of-service studies.

4. During my tenure with TCI and AT&T Broadband, I was the senior executive in charge of the rate and regulatory group. My responsibilities in that capacity were to direct and approve all of the rate and regulatory filings made by TCI and AT&T Broadband, including Petitions for Special Relief.

5. I have been asked by the City to comment on: (1) the methodology used by Comcast, and its consultant SNL Kagan (“SNLK”), to assign direct broadcast satellite (“DBS”) subscribers to the Edmonds, Washington franchise area; (2) the methodology used by Frontier Communications of the Northwest Inc. (“Frontier”) to ascertain their subscriber number for the Edmonds, Washington franchise area; and (3) what type of investigations FRC would have recommended that the City perform to evaluate Comcast’s multichannel video programming distributor (“MVPD”) subscriber penetration calculations, but for the fact that Comcast submitted to the City a redacted, incomplete copy of the Petition for Special Relief filed with the Federal Communications Commission (“FCC”) on or about July 19, 2013, and placed on Public Notice on August 12, 2013 (the “Petition”).

6. As a general matter, the FCC has previously accepted the methodology used by Comcast and SNLK (formerly Media Business Corp. (“MBC”)) in approving

other petitions for special relief submitted by Comcast. Having said that, I am unaware that any local franchising authority or the FCC has ever done a full and complete review of SNLK's DBS subscriber allocation methodology. Most times, the FCC has merely accepted the SNLK methodology because a local franchising authority has not objected to or been able to obtain the data needed to show that SNLK's methodology is fundamentally flawed; that is not the same as if the SNLK methodology was approved after a full investigation and review had been performed by the FCC or a local franchising authority in opposition to an effective competition filing.

7. When I was retained by the North Metro Telecommunications Commission in Minnesota I did provide a detailed analysis of the errors contained in the MBC methodology that is currently utilized by SNLK. The FCC, however, merely dismissed my analysis and the errors I identified, and instead accepted Comcast's analysis without any independent verification.¹

8. In this proceeding, the City is further hampered in its ability to evaluate the credibility and accuracy of Comcast's data and competing provider test calculations as the Petition filed with the City redacted all DBS subscriber numbers by zip+4 zip codes SNLK assigned to the Edmonds franchise area or Frontier's subscriber count for the Edmonds franchise area (and any associated assumptions, subscriber allocation methodologies, etc.). While the FCC may have received an un-redacted copy of the Petition for consideration, the City has not, and without the redacted evidence, it is impossible to determine whether the competing provider test is met. There simply is no evidence supporting Comcast's Petition.

¹ DA 13-863, rel. Apr. 24, 2013.

9. In describing the zip+4 zip codes provided to the SBCA in this case, SNLK submitted the following limited description of the allocation methodology that was used:

“ZIP Codes frequently span between and beyond municipal boundaries. ZIP+4 Codes, however, usually reside in one and only one municipality. SNL Kagan uses Place, Minor Civil Division (MCD), and County boundaries from Dynamap® a division of Pitney Bowes Business Insight, to determine municipal boundaries. SNL Kagan uses the Dynamap® ZIP+4 Centroid database, which contains ZIP+4s in all 50 states, DC, and Puerto Rico, based on current data from the USPS and U.S. Bureau of the Census, and the Tele Atlas master street database.”²

10. According to the Petition, the City of Edmonds has two 5-digit zip codes that were identified by SNLK on Comcast’s behalf, namely, 98020 and 98026. Based on Exhibit 5 to the Petition, neither one of these zip codes falls entirely within the City’s limits, which means SNLK had to identify and allocate to the Edmonds franchise area the zip+4 zip codes for these two 5-digit zip codes. SNL Kagan has identified and exclusively allocated 4,441 zip+4 zip codes to the Edmonds franchise area (*i.e.*, the corporate boundaries of the City). To put this in perspective, in order for the effective competition percentage for the City to fall below 15 percent, it would only require the total MVPD subscriber number to fall by 211 subscribers. Based on the number of zip+4 zip codes identified, and assuming one DBS subscriber per zip+4 zip code, the SNLK methodology would have to have an error rate of less than 5 percent to reduce the MVPD subscriber count for the City below the 15 percent threshold. As stated by the FCC in prior effective competition petitions, the City is not afforded an opportunity to request information from Comcast (or its consultants), which makes any sort of substantive review of the SNLK zip+4 zip code allocation methodology impossible. Even though it

² Exhibit 5 to the Petition.

bears the burden of proving that effective competition exists in the City, Comcast would have the City and the FCC rely on the terse description of the SNLK zip+4 allocation methodology contained in one paragraph on page 7 of Petition and the cursory summary set forth in Exhibit 5 to the Petition. Indeed, the paragraph in the Petition discussing the SNLK methodology uses terms without either a description or an example of the methodology and only makes reference to a one-page letter from MBC attached to the Petition as Exhibit 5. In fact, the Petition on page 7 states “SNL has developed a **process** to **accurately** identify the ZIP+4 codes that **correspond** with the political boundaries of a particular community.” (emphasis added) The words highlighted like “process,” “accurately” and “correspond” indicate that SNLK’s allocation methodology does contain some inherent estimates, but without a full investigation of this “process,” the City cannot determine if it could result in an error percentage that would cause MVPD penetration percentage in the Edmonds franchise area to fall below 15 percent. From the limited descriptions in the text of the Petition and Exhibit 5 it would be virtually impossible to recreate and test the SNLK methodology. Further frustrating the City’s review is the fact that Comcast did not provide DBS subscriber numbers to the City, either by zip+4 or in aggregate form, on the grounds that they are confidential, even though such data has been publicly submitted with effective competition petitions in the past, because making them public would apparently threaten the confidentiality of Frontier’s subscriber numbers, which are the subject of a nondisclosure agreement. As a consequence, the City would have to find some means of getting accurate zip+4 zip code data for the Edmonds franchise area just to obtain DBS subscriber numbers from the SBCA, which is both difficult, in light of the 20-day deadline for opposing the Petition,

and expensive for a small municipality with limited financial resources. Thus, Comcast effectively shifted the burden of proof to the City.

11. Comcast's Petition also includes non-Comcast video subscriber data from another cable operator, Frontier. Comcast redacted the copy of the Petition filed with the City due to a nondisclosure agreement voluntarily entered by Frontier and Comcast that deems Frontier subscriber data for the Edmonds franchise area to be confidential. It seems unusual that the FCC's effective competition process would allow for this confidential treatment of a cable operator competitor's subscriber numbers but force the DBS companies to provide detailed zip+4 zip code subscribership data in other effective competition proceedings. Through the City's counsel, I asked to get the DBS and Frontier subscriber data for the Edmonds franchise area. Comcast's attorneys refused to provide the data to the City's counsel, so FRC could not review it. At this point FRC cannot review Frontier's methodology for ascertaining its total subscriber count in the City, let alone determine the significance of that data to Comcast's MVPD subscriber penetration calculations. Unlike the FCC's misplaced reliance on the SNLK zip+4 zip code allocation methodology, in this case there is absolutely nothing in the record to support reliance on the Frontier data other than "trust us we are a cable operator." Congress, when it enacted the 1992 amendments to the Cable Communications Policy Act of 1984, clearly did not mean to turn effective competition proceedings into a simple "trust me" scenario where the City has no ability to protect its citizens because all necessary evidence to prove the existence of effective competition is deemed "confidential" by cable operators and/or their competitors.

12. The City has requested that I detail what type of detailed investigation I would have recommended it conduct in order to ascertain the validity and accuracy of the DBS and Frontier subscribership data included with the un-redacted version of the Petition filed with the FCC. In order to verify the DBS subscribership, I would have recommended the following activities be completed:

- Ascertain the accuracy of the SNLK allocation methodology with specific reviews of the Dynamap and the Tele Atlas data bases in determining the specific zip+4 zip codes located solely within the corporate boundaries of the City;
- Verify the resulting zip+4 zip codes from a City database like the property tax records and determine specific zip+4 zip codes that need to be added or eliminated; and
- Update the DBS subscriber numbers for the Edmonds franchise area by obtaining data directly from the SBCA based on the revised zip+4 zip codes.

13. In order to verify the accuracy of Frontier's subscriber numbers for the Edmonds franchise area, I would have recommended the following activities be completed:

- Evaluate the methodology used by Frontier to assign specific video subscribers to the City;
- Determine the accuracy of that assignment methodology (*e.g.*, in light of all annexations that have occurred in the recent past); and

- Revise the number of Frontier video subscribers located within the Edmonds franchise area based on the review of the Frontier methodology.

14. As the City cannot get access to this data and will not be afforded any discovery rights by the FCC, FRC recommends that the Media Bureau be required to perform these detailed analyses before stripping the City of its regulatory authority because the Bureau has the confidential data its possession and has broad powers to request additional data from providers like Comcast and Frontier.

15. I declare under penalty of perjury that the facts stated herein, are true and correct to the best of my knowledge and belief.

This declaration was executed on 29th day of August, 2013 at Castle Rock, CO.

A handwritten signature in black ink, appearing to read 'Richard D. Treich', written in a cursive style.

Richard D. Treich

ATTACHMENT B

RE: Effective Competition - Edmonds

1 message

Horvitz, Steven <SteveHorvitz@dwt.com>
To: Michael Bradley <mike@lighthouselawgroup.com>

Thu, Aug 22, 2013 at 2:28 PM

Mike – Just left you a voicemail message on the 206 number below. Give me a call to discuss, but I am not in a position to provide a non-redacted version. As the Petition notes, the information from Frontier was provided to us with confidentiality restrictions.

From: bradley@bradleyguzzetta.com [mailto:bradley@bradleyguzzetta.com] **On Behalf Of** Michael Bradley
Sent: Thursday, August 22, 2013 11:53 AM
To: Horvitz, Steven
Cc: Stephen J. Guzzetta
Subject: Effective Competition - Edmonds

Good morning Steve - I act as Special Counsel to the Lighthouse Law Group in Seattle, WA. We represent the City of Edmonds. Could you please email the non-redacted E.C. Petition to me? Thanks.

Mike

Michael R. Bradley

Lighthouse Law Group

mike@lighthouselawgroup.com

(206) 273-7440

CONFIDENTIALITY NOTICE

This email message and any attachments may contain privileged or confidential information that is intended only for the use of the recipient(s) named above. If you have received this message in error, please notify us immediately and destroy the message.

ATTACHMENT C

RE: Response to Comcast Petition

1 message

Finley, Stan <Stan_Finley@cable.comcast.com>

Thu, Aug 22, 2013 at 2:53 PM

To: "Clifton, Stephen" <stephen.clifton@edmondswa.gov>, "Michael Bradley (mike@lighthouselawgroup.com)" <mike@lighthouselawgroup.com>

Cc: "Turpen, Janet" <Janet_Turpen@cable.comcast.com>

Stephen,

The City received a copy of the Effective Competition filing made to the FCC, and the redacted information was part of the package filed with the FCC which included information that was released under confidentiality agreements of which the City of Edmonds was not a part. With that said, the City is not intended to view that information, or to receive a CD with the Zip+4 sorted customer data.

If you have additional questions, please let me know.

Regards

Stan Finley

Comcast Cable

Director, Franchising & Government Affairs

1525 75th St. S.W. #200

Everett, WA 98203

425-263-5314

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify Stan Finley, Comcast, immediately and destroy all copies of this message and any attachments.

From: Clifton, Stephen [mailto:Stephen.Clifton@edmondswa.gov]

Sent: Thursday, August 22, 2013 10:55 AM

To: Finley, Stan; Michael R. Bradley (mike@lighthouselawgroup.com)

Cc: Taraday, Jeff

Subject: FW: Response to Comcast Petition

Hi Stan,

The attached document was received by the City, but we do not have hard copy files or CD that was to be included in the Comcast EC Petition? The Petition we have is redacted. Was a non-redacted version sent to the City.

Please respond to me or Mike.

Stephen Clifton

Stephen Clifton, AICP

Director, Community Services & Economic Development

121 – 5th Avenue North

Edmonds, WA 98020

Stephen.Clifton@edmondswa.gov

425-771-0251

Thanks!

Mike

Michael R. Bradley

Lighthouse Law Group

mike@lighthouselawgroup.com

(206) 273-7440